



State of Tennessee Department of Children's Services

Administrative Policies and Procedures: 4.12

Subject: Suspension/Termination of Staff for Alleged Criminal Acts

Supersedes: DYD 3.24 08/01/94

Local Policy: No

Local Procedures: No

Training Required: No

Approved by:

Effective date: 02/01/98

Revision date:

Application

To all Department of Children's Services Employees.

Authority: TCA 37-5-106

Policy

The Department of Children's Services will initiate action to investigate the circumstances surrounding the arrest, or indictment or conviction of an employee to determine if disciplinary action is appropriate. Disciplinary action may be appropriate if an arrest, or indictment or conviction affects the employee's ability to perform his/her job. This policy does not imply that an arrest in and of itself is grounds for disciplinary action; neither does it require a criminal conviction before disciplinary action is appropriate.

Procedures

A. Employee's responsibility to inform the supervisor

Any employee who is arrested, or indicted, or convicted of a criminal offense, either a misdemeanor or felony, must immediately report this information to his/her supervisor within 24 hours following the event. If reporting cannot be done due to weekends or holidays, then the information is reported the next working day.

B. Supervisor's responsibility

1. The supervisor, manager, or superintendent must immediately notify their central office division director. That director must ensure that the directors of personnel and internal affairs are fully apprised of the factors surrounding

internal affairs are fully apprised of the factors surrounding the event.

2. Prior to deciding the proper action, civil service employees must be given due process including an informal hearing before the appropriate supervisor. The purpose of the hearing is not to decide on the guilt or innocence of the employee for the alleged act, but is to determine whether there is a reasonable likelihood that the event will reduce public confidence in the department or affect the employee's ability to perform his/her job assignment.
3. After obtaining all available information, the supervisor must take the action that he/she deems appropriate. If the employee's ability to perform his/her assigned job is significantly impaired by the arrest, or if public confidence in the department is diminished, separation from state service may be appropriate.

C. Factors to consider before disciplinary action

The following factors should be considered and weighed before any decision is made:

- ◆ Employee's position, duties and responsibilities,
- ◆ Media coverage of event,
- ◆ Client (child and family) awareness of and reaction to the event,
- ◆ Other employees' knowledge and reaction,
- ◆ Public knowledge and reaction,
- ◆ Employee's work record,
- ◆ Whether the alleged conduct involved moral turpitude,
- ◆ Any unusual circumstances surrounding the incident.

D. Disciplinary action

1. Any disciplinary action is not deciding the guilt or innocence of the employee for the act for which he/she is arrested, but is deciding whether his/her ability to perform his/her job has been impaired.
2. Under no circumstances may an employee be suspended indefinitely pending judicial determination of guilt or innocence.
3. In a case where a conviction has not occurred, or the case has not yet gone to trial, or has been diverted from normal legal proceedings, or where the normal, legal proceedings have been delayed pending completion of some alternative action, a decision to impose discipline must be supported by the same level of proof required for any disciplinary

action, i.e., a preponderance of evidence to support the imposition of disciplinary action. It is not necessary to prove guilt beyond a reasonable doubt, nor should the department be bound in its investigation by rules of evidence that exceed those generally accepted as applicable in Administrative proceedings.

4. Concealment of an arrest, or indictment or conviction is grounds for disciplinary action, up to and including termination.

Forms

None

Collateral Documents

None

Standards